

## UNITED STATES DISTRICT COURT

for the  
Northern District of New YorkIn the Matter of the Search of  
(Briefly describe the property to be searched  
or identify the person by name and address)THE PERSON OF JOHN DOE; A/K/A "JIMMY EARL  
MCNEILL; A/K/A "MICHAEL GERARD SIMPSON"

Case No. 3:21-CR-385 (TJM)

## APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the property to be searched and give its location):

The person of John Doe, black male, with date of birth unknown, assigned USMS # 73914-509

located in the Nothorn District of New York, there is now concealed (identify the person or describe the property to be seized):

DNA (Deoxyribonucleic Acid) in the form of saliva and cells of John Doe to be recovered by use of buccal swabs of the inside of the mouth

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

- ☒ evidence of a crime;
- ☐ contraband, fruits of crime, or other items illegally possessed;
- ☐ property designed for use, intended for use, or used in committing a crime;
- ☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:


Code Section  
42 U.S.C. § 1383a(a)(2)(A);  
and 18 U.S.C. § 1028A(a)(1)

Offense Description  
Supplemental Security Income Fraud; and Aggravated Identity Theft

The application is based on these facts:

See attached affidavit

- ☒ Continued on the attached sheet.
- ☐ Delayed notice of \_\_\_\_\_ days (give exact ending date if more than 30 days: \_\_\_\_\_) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

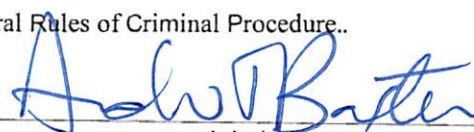


Applicant's signature

Special Agent Thomas A. Martin, SSA-OIG

Printed name and title

Attested to by the affiant in accordance with Rule 4.1 of the Federal Rules of Criminal Procedure..

Date: 1/11/2022


Judge's signature

City and state: Syracuse, New York

Hon. Andrew T. Baxter, United States Magistrate Judge

Printed name and title

**AFFIDAVIT**

I, Thomas Martin, being first duly sworn, hereby depose and state as follows:

1. I am a Special Agent with the Social Security Administration, Office of Inspector General (SSA OIG), assigned to the Batavia Resident Agency, Batavia, NY. I have been in my current position since April 2019. Previously, I was employed by the U.S. Department of Veteran Affairs Police Department located in Syracuse, NY, from September 2013 to April 2019. During my tenure with the VA, I held the positions of uniformed police officer, Criminal Investigator, Deputy Chief, and Chief of Police. Prior to working at the VA, I worked as a uniformed police officer at the Federal Reserve Board in Washington, DC, from September 2011 to September 2013. I have also worked for the Office of Personnel Management (OPM) as a Background Investigator, Immigration and Customs Enforcement (ICE) as an Immigration Enforcement Agent (IEA) and honorably served four years in the United States Air Force as a Security Forces member. As a federal agent, I am authorized to execute warrants issued under the authority of the United States.

2. I have completed training at the Federal Law Enforcement Training Center, Glynco, Georgia to include the Criminal Investigators Basic Program, the Immigration and Customs Enforcement Basic Academy, and the Inspector General Criminal Investigator Training Program.

3. During my tenure as a criminal investigator, I have conducted and participated in numerous investigations of criminal activity, including investigations of fraud against the Social Security Administration (SSA) through misuse of Social Security numbers (SSNs). During the investigation of these cases, I have participated in the execution of search warrants and seized evidence of such violations. Based on my training and experience, I am familiar with the rules and regulations governing SSA and other government agencies and the methods used to commit fraud against the U.S. Government, and the documents and other records that frequently evidence such fraud.

4. The statements in this affidavit are based on my investigation of this matter and on information provided by other law enforcement agents, including members of the Tioga County Sheriff's Office (TCSO). Because this affidavit is being submitted for the limited purpose of securing a search warrant, I have not included each and every fact known to me concerning this investigation. I have set forth only the facts that I believe are necessary to establish probable cause to obtain a warrant to search and seize bodily substances that belong to John DOE, aka "Jimmy Earl McNeill", aka "Michael Gerard Simpson" ("defendant"), specifically, skin cells obtained by swabbing the inside of the defendant's mouth, that constitute evidence of crimes that are further described below. The defendant's true identity has yet to be confirmed.

5. The defendant is currently charged by indictment in the Northern District of New York, 21-CR-385, (hereinafter, the Indictment) with, Count One, Supplemental Security Income Fraud in violation of Title 42 United States Code Section 1383a(a)(2)(A) and, Count Two, Aggravated Identity Theft in violation of Title 18 United States Code Section 1028A(a)(1) (the "Subject Offenses"). Counts One and Two involve the defendant's use of the personal identifying information ("PII") of another person. That other person, whose PII the defendant is accused of using to perpetrate the Subject Offenses, has biological relatives whose DNA may be compared against the samples sought by this warrant to establish the defendant is not who he purports to be. The DNA samples sought by the requested warrant may also be compared to law enforcement and other databases to help determine the defendant's true identity.

#### **BACKGROUND**

6. On June 16, 2021, your affiant met with an investigator from the TCSO. During the course of the meeting, the investigator disclosed that he was investigating a possible stolen identity. The TCSO investigator told your affiant that he had identified two individuals utilizing the same name, date of birth, and SSN: Jimmy Earl McNeill; DOB XX/XX/1956; SSN XXX-XX-1968.

One of the individuals, the defendant, DOE, was living in Owego, NY and the other was living in Fayetteville, NC. The TCSO investigator indicated his department began working this case in February 2021 after the case was referred to TCSO by the Owego County Department of Social Services (DSS).

**John DOE**

7. As part of TCSO's investigation, DOE voluntarily submitted his fingerprints. Using these fingerprints, TCSO established DOE had a criminal history in the Jacksonville, Florida area including several arrests in the late 1980s. Associated criminal records obtained by TCSO from the Jacksonville, Florida Sheriff's Department and reviewed by your affiant reflect multiple arrests of DOE under the name Michael Gerard Simpson using SSN of XXX-XX-4496, between 1988 and 1989. Further investigation by your affiant confirmed the SSN ending 4496 and associated with the above arrests under the name Michael Gerard Simpson does not belong to DOE or an individual named Michael Gerard Simpson, but does belong to another individual who is now deceased.

8. The investigation also revealed that DOE had begun using the PII of Jimmy Earl McNeill, discussed above, in at least July 1995 when DOE applied for and obtained a New York State non-driver's license identification card through the New York State Department of Motor Vehicles (NYS DMV). DOE has been reissued multiple NYS identification cards in the name of "Jimmy Earl McNeill" since that time. NYS DMV has four image captures (photographs) on file with the NYS DMV, which all depict DOE.

9. In January of 1997, DOE applied for and obtained New York State benefits using the PII of Jimmy Earl McNeill discussed above.

10. From January of 1997 to the present, DOE has received various state and federal benefits using the PII of Jimmy Earl McNeill discussed above including: Temporary Assistance (Welfare); Supplemental Nutrition Assistance Program (SNAP); Home Energy Assistance

Program (HEAP); Medicaid; and benefits from the U.S Department of Housing and Urban Development (HUD).

11. On or about April of 1999, DOE applied for and was awarded Supplemental Security Income (SSI) benefits from SSA using the PII of Jimmy Earl McNeill discussed above. DOE has continued to receive SSI benefits since that time.

12. On June 24, 2021, your affiant and another agent from SSA-OIG attempted a voluntary interview of DOE at his residence in Owego, New York in order to positively identify him and determine his ongoing eligibility of SSI. DOE agreed to be interviewed and, during the interview, was asked to provide any documentation he had that would help identify him. Your affiant witnessed DOE unlock the top drawer of a dresser in his bedroom and retrieve his New York State non-driver's license identification card from a wallet located within the drawer. Additionally, DOE retrieved a photocopy of a North Carolina birth certificate as well as a photocopy of a Social Security card bearing the name Jimmy Earl McNeill and SSN XXX-XX-1968. In addition to other biographical information about Jimmy Earl McNeill, the birth certificate produced by DOE included the full names of both the biological mother and father of McNeill. Both photocopied documents were retrieved by DOE from various Ziploc style bags that were stored in the same locked drawer. The various Ziploc style bags all contained additional documents that were not provided to your affiant at that time.

13. During the interview, DOE was not able to correctly answer basic pedigree and biographical questions. For example, when asked about his service in the United States Army, DOE could not provide substantive responses. When asked about whether he had any siblings, DOE referred to a notebook to assist him in remembering the names of his brothers and did not mention other siblings of whom your affiant is aware. Your affiant also noticed that during the interview, DOE spoke with a slight foreign accent despite the true Jimmy Earl McNeill having

been born and raised in the United States.

14. Based on my training and experience, individuals utilize the identities of other individuals including using names, dates of birth, and SSNs in order to obtain both federal and state benefits to which they otherwise would not be entitled.

**Jimmy Earl McNeill**

15. A review by your affiant of NYS DMV records confirmed that the individual in North Carolina, using the PII associated with Jimmy Earl McNeill, who your affiant believes to be the true Jimmy Earl McNeill, was first issued a Class V driver's license in the State of New York in January of 1981.

16. A query of SSA's database for yearly detailed earnings, a database that tracks the work history and income of individuals assigned SSNs, confirmed McNeill worked at businesses in the Ithaca, New York, area between 1977 and 1980 including Cornell University and Borg-Warner Corporation.

17. The same query also confirmed that in 1974, McNeill worked for the Department of the Army.

18. A review of records provided by Ithaca Police Department (IPD), confirmed McNeill was arrested by IPD multiple times between June 1980 and June 1981 for various reasons. McNeill was residing at various locations in Ithaca, New York at the time of these arrests.

19. Another query of the same SSA database confirmed JM, the son of McNeill, was born in Ithaca, NY, on XX/XX/1979 to McNeill and an individual then named SP, now named SW.

20. As part of the investigation, TCSO interviewed McNeill via phone on May 17, 2021. During this interview, McNeill was able to correctly answer background and biographical questions regarding McNeill including questions about his parents, his siblings, and his time in United States Army. During this interview, McNeill also disclosed that, at some point, he had lost his wallet.

McNeill also disclosed that at the time he lost his wallet it contained both a copy of his birth certificate and a copy of his Social Security card.

21. As part of the investigation in this case, TCSO also requested that the New York State Department of Criminal Justice Services (NYS DCJS) perform a fingerprint analysis of fingerprints taken in connection with two arrests of DOE, in the Binghamton, New York area from December of 1997 and November of 2000, and compare these fingerprints to fingerprints taken in connection with an arrest of McNeill, in the Ithaca, New York area from January of 1981. NYS DCJS's fingerprint analysis confirmed the fingerprints recorded for DOE in connection with the arrests in December of 1997 and November of 2000 did not match the fingerprints of McNeill taken at the time of the January 1981 arrest.

22. Also, as part the investigation, an agent from SSA OIG in North Carolina interviewed the sister of McNeill, SG, at her residence. After being shown a photo of McNeill, SG confirmed McNeill was Jimmy Earl McNeill, DOB: XX/XX/1956. SG also provided pertinent information pertaining to Jimmy Earl McNeill's family and his biography including producing pictures of McNeill in her residence. SG also confirmed that McNeill had lived in Ithaca, NY and worked at Cornell University in the early 1980s. SG further explained that while living in that area, McNeill lived with his girlfriend at the time, SW, and that McNeill and SW had a child together who she identified as JM.

23. An interview of SW was subsequently conducted. SW confirmed she lived with Jimmy Earl McNeill in Ithaca, New York in the late 1970s. Additionally, she confirmed that she and Jimmy McNeill had a son together, on XX/XX/1979, while the couple was living in Ithaca. SW also produced a picture on her cellular phone depicting McNeill and positively identified McNeill as Jimmy Earl McNeill.

24. When shown a picture of DOE, SW could not identify him.



25. As part of the investigation, your affiant also conducted additional SSA database searches regarding biographical information of JM, which confirmed JM was born in Ithaca, New York on XX/XX/1979 to Jimmy Earl McNeill and SW. Additionally, your affiant conducted SSA database searches and confirmed that Jimmy Earl McNeill and SG share the same biological parents as do all of Jimmy Earl McNeill's seven other siblings. SG has agreed to provide a DNA sample for comparison.

26. On August 23, 2021, your affiant obtained and executed a federal search warrant at DOE's residence in Owego, New York with the assistance of other SSA-OIG agents. During execution of the search, in addition to other relevant evidence, agents recovered the copy of the Social Security card and birth certificate previously produced by DOE during the June 24, 2021 interview of DOE conducted by your affiant. Agents also found documents regarding DOE's criminal history provided to DOE in response to DOE's voluntary submission of his own fingerprints to the FBI. These records demonstrated DOE's fingerprints are linked to arrests under the name "Jimmy Earl McNeill" as well as "Michael Gerard Simpson."

27. Based on your affiant's investigation, it appears DOE has been falsely using the name, SSN, and date of birth of Jimmy Earl McNeill since at least 1995 to fraudulently obtain state identification documents as well as state and federal benefits.

28. DOE was ultimately arrested on November 10, 2021 on charges of Supplemental Security Income fraud and aggravated identity theft. Since the time of his arrest, DOE has not provided any information as to his true identity. DOE is currently in the custody of the United States Marshals Service (USMS) and assigned USMS identification number 73914-509.

### **CONCLUSION**

29. Based on the foregoing, I respectfully submit that there is probable cause to believe that obtaining samples of the defendant's DNA is necessary in order to complete the comparison



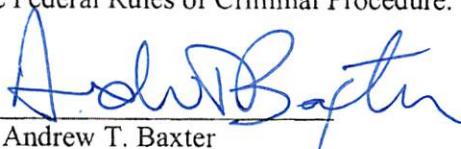
between the DNA of the defendant and the DNA of biological relatives of the person whose PII the defendant is accused of using to commit to Subject Offenses. Additionally, the DNA samples sought by the requested warrant may also be compared to law enforcement and other databases to help determine the defendant's true identity.

30. Therefore, I respectfully request that the attached search warrant be issued authorizing the search and seizure of bodily substances from John DOE, aka "Jimmy Earl McNeill", aka "Michael Gerard Simpson", specifically, skin cells obtained by swabbing the inside of the mouth at least two times, which constitute evidence of the defendant's DNA, and that swabs (aka buccal swabs) and samples be kept, analyzed, and compared for DNA purposes.

ATTESTED TO BY THE APPLICANT IN ACCORDANCE WITH THE REQUIREMENTS OF RULE 4.1 OF THE FEDERAL RULES OF CRIMINAL PROCEDURE.

  
Thomas A. Martin Special  
Agent, SSA-OIG

I, the Honorable Andrew T. Baxter, United States Magistrate Judge, hereby acknowledge that this affidavit was attested by the affiant by telephone on January 11, 2022, in accordance with Rule 4.1 of the Federal Rules of Criminal Procedure.

  
Hon. Andrew T. Baxter  
United States Magistrate Judge